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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

WAYNE McFARLIN

Plaintiff,

v.

EDWARD GORMLEY, an individual; CITY
OF McMinnville, a Municipal Corporation;
CITY COUNTY INSURANCE SERVICES
TRUST; ROD BROWN, an individual;
PUBLIC SAFETY LIABILITY
MANAGEMENT INC., an Oregon corporation;
WALDO FARNHAM

Defendants.

Case No. 3:06-CV-1594-HU

**PLAINTIFF MEMORANDUM
OPPOSING DEFENDANT WALDO
FARNHAM'S MOTION FOR
SUMMARY JUDGMENT**

Introduction

Defendant Farnham was part of a civil conspiracy of individuals engaged in conduct concealed from Plaintiff, who intended to interfere with McFarlin's employment rights and achieve his termination as Chief of Police. Farnham shared an objective in the plan to obtain McFarlin's termination of employment. Farnham participated with the assistance of Defendant

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Brown in providing a defamatory written complaint in private to Gormley, which in part was used in furtherance of the plan to engineer the end of McFarlin's employment. Farnham wrongfully used false statements to defame McFarlin, and interfere with McFarlin's contract of employment with knowledge that one or more of his defamatory statements were false, or at least he had been reckless in not knowing the statements were false.

Material Facts

Plaintiff relies on and incorporates the section on Material Facts of his Memorandum Opposing Defendants Gormley and City's Motion for Summary Judgment as those pertain to Farnham, and incorporates that by reference, with his Concise Statement of Material Facts and Responses and the Affidavit of Plaintiff, deposition excerpts, Exhibits and Declarations filed by Plaintiff.

Standard of Review

Plaintiff relies upon and incorporates by reference as if fully set forth, the entire section on Standard of Review in Plaintiff's Memorandum Opposing Defendants Gormley and City's Motion for Summary Judgment.

Legal Argument

1. All Claims: As a Matter of Law, Farnham's Conduct is Not Protected by the First Amendment and the Noerr-Pennington Doctrine

Even under the authorities cited, there are fact questions as to whether Farnham was petitioning the City in exercising his First Amendment or other protected rights, or outside protection, by intentionally interfering with Plaintiff's employment and due process with defamatory statements with an objective to thereby obtain the termination of Plaintiff's employment and damage Plaintiff's employment, reputation and career.

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2. Claims Nine (Conspiracy to Defraud), Ten (Conspiracy to Interfere with Contract Rights and Eleven (Conspiracy to Interfere with Prospective Business Relations): As a Matter of Law, Plaintiff Can Prevail on His Conspiracy "Claims"

Plaintiff incorporates as if fully set forth the section of his Memorandum Opposing Defendants Gormley and City's Motion for Summary Judgment, section 9, as to the conduct of Farnham.

3. Claim Thirteen (Negligence): As a Matter of Law, Plaintiff Can Prevail on His Negligence Claim

Plaintiff incorporates as if fully set forth the section of his Memorandum Opposing Defendants Gormley and City's Motion for Summary Judgment, section 11, as to the conduct of Farnham.

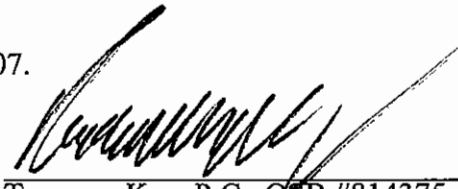
4. Claim Five (Interference with Contract Rights) and Six (Interference with Prospective Business Relations): A Reasonable Jury Could Find in Plaintiff's Favor on His Claims for Interference with Contract Rights and/or Business Relations

Plaintiff incorporates as if fully set forth the section of his Memorandum Opposing Defendants Gormley and City's Motion for Summary Judgment, section 8, as to the conduct of Farnham.

5. Claim Fourteen (Defamation): A Reasonable Jury could Find in Plaintiff's Favor on His Claim for Defamation

Plaintiff incorporates as if fully set forth the section of his Memorandum Opposing Defendants Gormley and City's Motion for Summary Judgment, section 14, as to the conduct of Farnham.

Dated this 12th day of November, 2007.



Terrence Kay, P.C., OSB #814375
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November, 2007, I served the foregoing PLAINTIFF'S MEMORANDUM OPPOSING DEFENDANT FARNHAM'S MOTION FOR SUMMARY JUDGMENT on the following parties:

Karen O'Kasey
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Of Attorneys for Defendants Gormley and City of McMinnville

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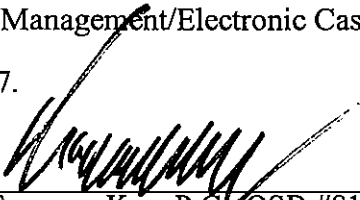
Of Attorney for Defendants Brown, CCIST and PSLM

Frank Lagesen
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Of Attorneys for Defendant Farnham

by electronic means through the Court's Case Management/Electronic Case File system.

Dated this 12th day of November, 2007.



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Attorney for Plaintiff